



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,453	04/02/2001	Brian Thomas Dorricott	P-3018.001	9505

7590

06/29/2005

Eric T. Jones
Reising, Ethington, Barnes
Kisselle, Learman & McCulloch, PC
P O Box 4390
Troy, MI 48099-4390

EXAMINER

KENDALL, CHUCK O

ART UNIT

PAPER NUMBER

2192

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary

Application No.

09/824,453

Applicant(s)

DORRICOTT, BRIAN THOMAS

Examiner

Chuck Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the application filed 03/17/05.
2. Claims 1, 2, 4 – 7 have been amended and are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1, 2, 5 & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Wong et al. USPN 6,654,746B1 (art being made of record).

Regarding claim 1, Wong anticipates a method of updating computer software and/or data in any one of a plurality of recipient computers a recipient computer being a computer that is to be updated, the update being provided to the recipient computer by a data owner computer, the method comprising the steps of:

said recipient computer sending an update request as an e-mail message to the data owner computer the update request specifying files to be updated (11:25 – 30, see mobile client (recipient) generates email message to the server (owner computer);

Art Unit: 2192

said data owner computer automatically analyzing the update request determining the files to be updated and preparing a corresponding software and/or data update response in response to receiving update request email (11:40 – 45, see takes snap shot and determining content and structure);

said owner computer automatically sending said software and/or data update to said recipient computer, wherein the software and/or data update comprises an email message having one or more files to be updated are sent as attachment files in the e-mail message (11:47 – 50, see sends update file as a binary attachment to user) ; and

said recipient computer automatically responding to said software and/or data update by opening the attachment files and updating said software and/or data (11:57 – 60, see update agent processes changes automatically).

Regarding claim 2, a method as claimed in claim 1, in which the update request is compiled at the recipient computer by reference to a data directory, and the software and/or data update is compiled at the owner computer by reference to the same data directory, only files identified in the update request being updated in the software and/or data update (12:17 – 19).

Regarding claim 5, a method as claimed in claim 1, in which the e-mail update request is transmitted via the Internet (5:5 – 10, see web server).

Art Unit: 2192

Regarding claim 7, a method as claimed in claim 1, in which the computer software and/or data to be updated consists of one of a virus signature, a software application or data to be backed-up by the owner computer (3:35 – 37, see computer files).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al. USPN 6,654,746B1 (art being made of record) as applied in claim 1, in view of Lloyd et al. USPN 6,779,178 B1 (art of record).

Regarding claim 4, Wong discloses all the claimed limitations as applied in claim 1. Although, Wong doesn't explicitly disclose the software/and or data update is protected by a password, Wong does disclose the use of a digital signature to check access between the client and the server (12:57 – 60). However, Lloyd in an analogous art and similar configuration also discloses an electronic mails messaging system, which utilizes passwords for ensuring privacy (Lloyd, 11:65 – 67). Therefore, it would

Art Unit: 2192

have been obvious to one of ordinary skill in the art at the time the invention was made to combine Wong and Lloyd because, using a password would make it more secure.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al. USPN 6,654,746B1 (art being made of record) as applied in claim 1, in view of Cantos et al. USPN 6,529,784 B1 (art of record).

Regarding claim 6, Wong discloses all the claimed limitations as applied in claim 1 above. Wong doesn't explicitly disclose that a firewall protects computer through which it communicates in sending said e-mail update request.

Cantos discloses a fire wall in a similar configuration, (Cantos, Col. 4:59, see firewall). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Wong and Cantos because, it ensures that communications between the control server and agents associated with the customer network are secure and uncorrupted (Cantos, Col. 4:56 – 60, also Col.10: 56 – 60).

Response to Arguments

7. Applicant's arguments with respect to claims 1, 2, 4 – 7 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2192

Applicant in his response on page 4, has asked Examiner to indicate the statutory basis of Lloyd as Prior art, since his date of publication is August 17, 2004 and which is after Applicants priority date of November 2000.

Lloyds most effective filling date is 09/16/99 and even predates further back to 1997, as being a continuation of 08/813,121 (now abandoned).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2192

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-2723698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-2723695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CK

A handwritten signature in black ink, reading "Anthony Nguyen-Ba". The signature is written in a cursive, flowing style.

ANTONY NGUYEN-BA
PRIMARY EXAMINER